Young Carers and their rights

The event will start at 10am

@YCAAlliance @CarersTrust
Welcome and housekeeping

➢ Ensure microphones are on mute
➢ We will be recording the session after the first item
➢ Introduce yourself and make use of the chat
➢ Unanswered questions will be followed up after the event
➢ Join in the conversation on Twitter - @YCAAlliance @CarersTrust
Setting the scene

- Children and Families Act 2014
- Care Act 2014
- Young Carers (Needs Assessments) Regulations 2015
- Health and Care Act 2022
- Carer’s Leave Act 2023
- Care and Support Statutory Guidance
- Working Together to Safeguard Children statutory guidance

It’s a question of theory vs reality
Setting the scene
Some green shoots of optimism

- **Working Together to Safeguard Children**
  - Local authority services to adults must consider whether any children are providing care to the adult and in need of support.
  - Adult services should liaise with children’s services to ensure a joined-up approach.

- **Ofsted’s ILACS framework**
  - Local authorities likely to be judged ‘good’ if:
    - Professionals identify... young carers.
    - Assessments... result in direct help for families, including young carers if needed and are focused in achieving sustainable progress for children.
  - Local authorities expected to provide a list of children supported under s17 of the Children Act 1989 who are identified as being young carers.

- **Discharge from mental health inpatient settings**
  - Trusts should have processes in place to, at the point of admission, identify young carers and other children in the family unit who may be in need of information and support.
Young Carers’ rights explained

Professor Luke Clements, Cerebra Professor of Law and Social Justice
John Bangs OBE – Independent Carers Policy Advisor and former local authority commissioner
Russell Minns, Former young carer and Children & Young People Coordinator, Surrey Young Carers

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Recent and selected publications

Carers & their Rights

Accessing Public Services Toolkit: A problem-solving approach

Clustered Injustice and the level green

Unlawful restrictions on the rights of disabled children with autism to social care needs assessments
Carers rights ~ pre-1948
That the Father and grandfather, and the Mother and Grandmother, and the children of every poor, old, blind, lame, and impotent person, or other poor person, not able to work, being of a sufficient ability, shall at their own charges relieve and maintain every such poor person in that manner, and according to that rate, as by the Justices of peace of that County where such sufficient persons dwell ... upon pain that every one them shall forfeit twenty shillings for every month which they shall fail therein

Poor Relief Act of 1601, 43 Elizabeth c 2, s7
Carers rights ~ post-1948
Willing and able

There is no duty to care for family members – this Poor Law obligation was abolished by the National Assistance Act 1948 section 1.

Councils must:

- not assume that a carer is able and/or willing to provide (& continue to provide) care (now in s10(5) Care Act 2014);
- Identify whether the carer works or wishes to (and / or) to participate in education, training or recreation (now in s10(5) Care Act 2014 and the Young Carers’ (Needs Assessments) (England) Regulations 2015).
Young carers rights ~ pre-2015

Young carer’ was not a term used in any law
A ‘child in need’

Children Act 1989 section 17(10)
Duty to safeguard and promote the welfare of ‘children in need’;
• A child is ‘in need’ if they are:
  1. at risk of neglect or abuse or
  2. disabled

This right is still in force
A ‘child in need’

**Children Act 1989 section 17(1)**
- Duty to provide a range and level of services appropriate to those children’s needs

**Children Act 1989 section 17(6)**
- Including accommodation, and giving assistance in kind or in cash

This right is still in force
As carers under the Carers (Recognition and Services) Act 1995

A duty to assess the needs of:

• People who provide or intend to provide, regular and substantial care for a disabled child
• ie young carers, siblings etc etc have a right to an assessment under:

    Carers (Recognition and Services) Act 1995 s1(2).
Young carers rights ~ post-2014
Young carers

Children Act 1989 s17ZA

Duty to assess a young carer ‘on the appearance of need’

• A YC is “a person under 18 who provides or intends to provide care for another person” (but excluding paid / formal volunteers)

• Detailed assessment regulations;

• Young Carers’ (Needs Assessments) (England) Regulations 2015

• No duty to provide support for young carers
YC Assessment regs

Duty to consider

• the YC’s age, understanding and family circumstances;
• the wishes, feelings and preferences of the young carer;
• differences of opinion between YC, YC’s parents and the person cared for, concerning the care provided; and
• the outcomes the YC seeks from the assessment.
• young carer’s wishes to participate in education, training, recreation, work.
Duty to consider

• the impact of the needs of the young carer’s family on the well-being of the young carer and any child in that family and, in particular, on their education and personal and emotional development.”

• whether to combine a Young Carers Needs Assessment with the assessments of other family members (including of adults assessed under the Care Act).
R (E) v. Islington LBC (2017)

Child had to translate into sign language for her deaf mother (& vice versa) and provide extra care for younger siblings;
- LA considered this ‘highly inappropriate’;
- LA accepted she had caring ‘responsibilities beyond what is appropriate’ but argued that these due to her mother’s inadequate parenting;
- LA refused to undertake a YC assessment;

Held
- illogical - she was catering for needs arising out of her mother’s deafness, even if mother’s approach to parenting may have been a contributory factor.
The Act applies to ‘adults in need’ and to carers 18 or over

It also provides a process for assessing the needs of young carers in transition.

Statutory Guidance to the Care Act 2014 explains what adult social workers should do when they encounter a young carer.
If it appears that a child is involved in providing care the local authority must consider:

• the impact on the young carer’s well-being, welfare, education and development;

• whether any of the caring responsibilities the young carer is undertaking are inappropriate.

Young carers should not be left with inappropriate levels of caring – namely

• anything likely to impact on the child’s health, wellbeing or education, or which can be considered unsuitable in light of the child’s circumstances and may include:
Statutory Guidance to the Care Act 2014 paras 6.65 to 6.73

- personal care such as bathing and toileting;
- carrying out strenuous physical tasks such as lifting;
- administering medication;
- maintaining the family budget;
- emotional support to the adult.

The Guidance says “a young carer becomes vulnerable when their caring role risks impacting upon their emotional or physical wellbeing or their prospects in education and life. This might include:
Statutory Guidance to the Care Act 2014
paras 6.65 to 6.73

• preventing the young carer from accessing education, for example because the adult’s needs for care and support result in the young carer’s regular absence from school or impacts upon their learning;
• preventing the young carer from building relationships and friendships;
• impacting upon any other aspect of the young carer’s wellbeing.

It is the adult services responsibility to make referrals to children’s services where there are safeguarding issues.
Councils should ensure that adults’ and children’s care and support services work together to ensure the assessment is effective – for example by sharing expertise and linking processes.

This can be facilitated by joint protocols between adult and children’s services to support joint working; utilising the “No Wrong Doors” template.
Transitions
Transition into adulthood

Disabled child
Parent
Sibling

Children Act 1989 services

14

18
Transition into adulthood

- Disabled
- Adult
- Parent
- Services

Children Act 1989 services

- Sibling
- 14
- Cliff
- 18
- edge

Adult services
Transition into adulthood

- Disabled adult
  - Parent
  - Sibling

14
- Children Act 1989 services

16
- Children Act 1989 services
- Told what Care Act 2014 services will be

18
- CM
- Adult services
General formula
Where it appears to a LA that:
1. it is ‘likely’ that [person] will have care & support needs after transition
2. it to be of significant benefit to be assessed;
   Must assess (with consent / BI assessment)
LA must give reasons if it refuses to assess
Transitions ~ at 18

CA 1989 s17ZH enables the Children Services & Adult Services to decide the best time to transfer when is best transfer their respective responsibilities.

SEND Code states (para 8.67):

• Under no circumstances should young people find themselves suddenly without support and care as they make the transition to adult services. Very few moves from children’s to adult services will or should take place on the day of someone’s 18th birthday.
Transitions ~ at 18

CA 1989 s17ZH ~ LAs can continue to provide services under CA 1989 s17 and/or CSDPA 1970 s2 even though the young person has reached the age of 18.

Statutory Guidance (para 16.67)

- families must not faced with a gap in provision of support on the 18th birthday - if by that date the necessary support not in place then the existing services must be continued until the ‘relevant steps have been taken’
10 minute comfort break
Young Carers and the Health and Care Act 2022 – Are these rights a reality?

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Health and Care Act 2022

- A duty on ICBs to consult carers (including young carers); both around service planning and commissioning

- A duty on ICBs to consult carers (including young carers) about individual services relating to the patient for prevention, treatment and diagnosis

- A duty on NHS hospital trusts to ensure that unpaid carers of all ages are involved as soon as feasible when plans for the patient’s discharge are being made.
Health and Care Act 2022

- 7/36 Integrated Care Strategies referenced involving carers in commissioning
- 5/36 referenced involving carers in hospital discharge
- 12/36 strategies specifically referenced young carers
- James' Story (youtube.com)
- Carers and Hospital Discharge Toolkit
Young Carers in Early Childhood Research Programme

Carly Ellicott, PhD Candidate, University of Plymouth

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#youngcarersearlychildhood

7/2/2024
Young carers are defined as ‘children and young persons under 18 who provide or intend to provide care, assistance or support to another family member’ Dearden & Becker (2000: 378).

A child or young person can become a young carer at any time, with no lower age limit within legislation for assessment of need (The Care Act 2014; Children and Families Act 2014; Health and Care Act 2022). Mindful that caring is often assumed before a formal diagnosis, conditions are classified as illness, disability, mental health concerns, addiction, or inability to cope without support (Carers Trust, 2023). A caring role may involve duties relating to physical care, practical tasks, and in many cases emotional support (NHS, 2023).

Within the context of this research, a legal definition of early years can be defined as ‘time between birth and the 31 August following their fifth birthday’ (Ofsted, 2015), and key stage one considers children aged 5-7yrs (Department for Education, DfE, 2014). These are two key developmental stages of early childhood.
Current systems are not enough...

15,000 children, including 3,000 aged just five to nine, spend 50 hours or more a week looking after someone because of an illness, disability or addiction.

Some young carers have to wait 10 years before being identified and the average waiting time to be identified for support was three years.

Being a young carer has a knock-on effect on school attainment and attendance, with young carers missing 27 school days per year on average.

Young people with caring responsibilities have a higher prevalence of self-harm. Of children who do self-harm, young carers are twice as likely to attempt to take their own life than non-carers.
Phase One: Are assessments effective in the identification of young carers in early childhood?

**Outcomes Star™ transforms lives and services | Triangle**

What is an Early Help Assessment? | Replacing the CAF (highspeedtraining.co.uk)

Examples of additional needs that the EHA may identify are:

- A child who has a mental health problem.
- Parents who have a mental health problem may need additional help with their children.
- Parents who are having relationship difficulties which are affecting the child.
- A child at risk of radicalisation or exploitation.
- A child who has special educational needs.
- A young person misusing drugs or alcohol.
- Parents misusing drugs and alcohol which is affecting the child.

**1182114_young-carers---additions-to-policy-and-guidance---january-2024-update.pdf**
Voicing narratives of the unheard: a polyvocal investigation of Young Carers in Early Childhood.

Drawing upon storytelling as a paradigm of enquiry, this research programme will provide a polyvocal (Samaras & Pithouse-Morgan, 2020) investigation of young carers in early childhood.

This group of young carers have been underrepresented in empirical research to date, yet their stories have been hidden in plain sight.

This research aims to challenge the existing narrative surrounding young carers experiences and the binary judgments which exist within literature concerned with voice of young children (Archard, 2020; Lawrence, 2022).

The research aims to create threads of hope through lived experience, from multiple perspectives.

appg-for-young-carers-and-young-adults-carers-reportlr.pdf
Four strands of the programme serve to triangulate an evidence base on which the young carers community and wider education and health and social care sectors can draw from.

1) Scoping review of the existing literature to investigate why young carers in early childhood are often marginalised.

2) Engage with the early year’s workforce and young carers services to understand how young carers in early childhood are represented currently both in policy and practice.

3) Consider the barriers young carers in early childhood (and their families) face to identification and support, and the implications this has with regards to their emotional wellbeing.

4) Explore the experiences of young carers in early childhood.

The outcomes aim to influence change in policy and practice to recognise and include young carers in early childhood consistently in all related strategy.
Research Questions

• What factors influence dominant representations of young carers in early childhood within the broader scope of young carer research?

• What are the barriers faced by young carers in early childhood and their families to accessing assessment and support?

• What is life currently like for young carers in early childhood living in the UK?
How?

Scoping

Investigate why young carers in early Childhood have been marginalised compared to older children, adolescents and young adult carers which dominate the main body of empirical research.

Focus Group

Engage with the early year’s workforce and interdisciplinary services concerned with the support of young carers. This will take place through a series of focus groups. Hosted by the researcher and Young Adult Carers (YACs) with lived experience of caring in early childhood, the focus groups aim to understand the limitations of current policy and practice concerned with young carers in early childhood.

Reflective accounts: MY voice – 100+ letters project

Consult with young carers in early childhood and young carers with lived experience of caring in early childhood. Participants will be invited to submit a letter, annotated drawing or poem which reflects upon their experience of caring.

Case study

Learning from a series of exploratory case studies, the final aim of the research will explore the lived experiences of young carers in early childhood (and their families).
Outcomes

Broaden the field of young carer literature, deepening understanding of the lived experiences of young carers in early childhood specifically.

Shaping economic growth, to develop better outcomes for society. With earlier recognition and intervention helping to mitigate negative outcomes in later life.

Replicate the programme globally. Broadening the field of enquiry will generate rich contextual data from which education, health and social care decision makers can draw from to better represent young carers of all ages.
Next steps..

Develop awareness training and campaigns which engage the early years sector within young carer strategy to offer holistic working practices, across all stages of education and care. Such practices must consistently foster:

- Think family approaches
- Think carer culture
- Children first ethos

Further evaluate assessment tools to ensure that needs assessments are developmentally appropriate and implemented consistently with young carers of all ages (Ellicott & Woodworth, 2023).
Questions ....?
Thank you
#youngcarersearlychildhood

Contact the principle investigator, Carly:
Carly.ellicott-1@postgrad.plymouth.ac.uk

www.youngcarersearlychildhood.com
References:


An introduction to the Carer’s Leave Act 2023

John Perryman
Policy and Public Affairs Manager, Carers UK
What I will cover…

- Juggling work and care in context
- Supporting carers to stay in work
- Carers’ existing rights in the workplace
- About the Carer’s Leave Act 2023
- Further information about the Carer’s Leave Act 2023
- Next steps – the need for paid Carer’s Leave
- Q+A
Juggling work and care – a growing issue

- Millions of people across the UK are juggling paid work with their unpaid caring responsibilities
- 2.5 million working carers in England and Wales (Census 2021) – 9% of all people in employment
- Over 400,000 people in employment now provide over 50 hours of unpaid care per week
- Between 2010-2020, more than 1.9 million people in paid employment took on caring responsibilities – over 5,000 people every day
- 1 in 3 people working in the NHS are also looking after a family member or friend
- Over 600 people give up work to care every single day
- An additional 2 million carers have reduced their working hours
- 75% worry about continuing to juggle work and care
Supporting carers to stay in work

• Supporting unpaid carers to remain in work is dependant on the interplay between a broad set of social and employment policies

• 26% of working carers say they need affordable and accessible alternative care to work

• The top three interventions to support working carers are:
  • 5-10 days of paid Carer’s Leave – 89%
  • A supportive line manager – 89%
  • Flexible working – 88%
Carers’ existing rights in the workplace

**Time off for emergencies**
Employees have a legal right to take a reasonable amount of time off work to deal with an emergency involving someone who relies on them for help, as a dependant (e.g., a spouse or partner, child, or parent).

**Right to request flexible working**
Employees also have a legal right to request flexible working if they have been an employee with 26 weeks (6 months) of continuous employment.

**Protection from discrimination by association with a disabled person**
In addition, in England, Wales and Scotland, people who are looking after someone who is older or disabled are protected under the Equality Act 2010 against direct discrimination or harassment, including within the workplace, because of their caring responsibilities.
Carer’s Leave Act 2023

- The new Carer’s Leave Act 2023 has gone through UK Parliament and will become law on 6 April 2024.
- This will give employees who are unpaid carers in England, Scotland and Wales the legal right to take up to five days of unpaid Carer’s Leave.
- This entitlement will be available to employees from the first day of their employment and allow employees to take time off for caring commitments.
- It will ensure that unpaid carers have the same employment protections as employees taking other forms of family related leave.
- This means carers will be protected from dismissal or any detrimental outcomes because of taking time off.
Carer’s Leave Act 2023

• The new Carer’s Leave Act 2023 has gone through UK Parliament and will become law on 6 April 2024.
• This will give employees who are unpaid carers in England, Scotland and Wales the legal right to take up to five days of unpaid Carer’s Leave.
• This entitlement will be available to employees from the first day of their employment and allow employees to take time off for planned and foreseen caring commitments.
• It will ensure that unpaid carers have the same employment protections as employees taking other forms of family related leave.
• This means carers will be protected from dismissal or any detrimental outcomes because of taking time off.

• Who is a ‘dependant’?
• What is a ‘long-term’ care need?
Further information about the Carer’s Leave Act

Carers UK has more information on our website:
https://www.carersuk.org/for-professionals/support-for-employers/carers-leave-act-support-package/

You can find the Carer’s Leave Act 2023 here:
https://www.legislation.gov.uk/ukpga/2023/18/enacted

You can find Guidance on gov.uk here:
https://www.gov.uk/carers-leave

You can find the draft Carer’s Leave Regulations 2024 here:
The need for **paid** Carer’s Leave

- The Carer’s Leave Act 2023 is a very positive step and one Carers UK strongly supported.
- Only a first step on a longer journey to secure the employment rights working carers need.
- Unpaid leave provisions are more problematic for some workers to benefit from – e.g., those on low pay, particularly women.

- Need to build on the Carer’s Leave Act and secure a right to **paid** Carer’s Leave
- This will be a key ask of all political parties ahead of the 2024 General Election.
- Would leverage even greater benefits for carers, employers and the economy, at little cost.
  - More unpaid carers – particularly women – would be able to juggle work and care.
  - Business would be better able to retain and recruit skilled employees – many of whom are 45-60 and at the height of their careers.
  - Workplace cultures would become more family-friendly and inclusive.
  - More working carers would be supported to stay in work or work more hours.
Any questions?

For more info about how the Carer’s Leave Act 2023, please contact: policy@carersuk.org / john.Perryman@carersuk.org
Next Steps/Opportunities
- Right to Carer’s Leave being introduced Saturday 6th April
- Families First for Children pathfinders
- Young carers and attendance
- “Know your Rights” refresh knowyourrights.pdf (carers.org)
- Implementing the new statutory guidance (Working Together; Mental Health Inpatient Unit)
- May 2024 – APPG for Young Carers and Young Adult Carers Deep Dive into impact of Care Act/Children and Families Act

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Thank you

Carers Trust – Upcoming young carer/young adult carer webinars

Visit the Carers Trust Eventbrite page to book

Thursday 29th February, 10am–12pm - Launch of the refreshed "No Wrong Doors for Young carers" memorandum of understanding and new guidance to improve joint working around identifying and supporting young carers and their families.

Tuesday 12th March, 4:30–5:30pm – A webinar to mark the launch of the first ever Young Carers Covenant – A UK-wide commitment to young carers and young adult carers.
Thank you

To find out more about the Young Carers Alliance or become a member/subscribe to updates

- www.youngcarersalliance.org
- youngcarersalliance@carers.org
- @YCAAlliance

Please do provide feedback on today’s event - Young Carers Alliance Event Feedback Form